

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DR. JOSEPH CICCIO, et al.)	
)	
Plaintiffs,)	
)	Civil No. 3:19-cv-00845
v.)	
)	Judge Trauger/Magistrate Judge Holmes
SMILEDIRECTCLUB, LLC, et al.)	
)	Special Master Samuel P. Funk
Defendants.)	

AMENDED SCHEDULING ORDER

On June 18, 2021, Provider Plaintiffs filed a Motion for Extension of Time to Complete Discovery. (Doc. 194). Defendants filed a response in opposition on July 2, 2021. (Doc. 221).

On July 6, 2021, the District Court ordered as follows:

The Special Master who has been appointed in this case is in the best position to determine the appropriate length for an extension of the discovery deadline in this case.

* * *

The Special Master should feel comfortable to make his determination without concern to the remaining deadlines in the case, which undoubtedly will have to also be adjusted, based upon his decision.

(Doc. 222).

In an Order dated July 21, 2021 and in response to Defendants' Motion for Clarification As To Whether the Special Master Is To Consider Revising Case Management Order (Doc. 232), the District Court ordered that the "Special Master may revise the deadlines and stay discovery if he determines that it is the best course of this case." (Doc. 234).

On August 24, 2021, the parties submitted briefs addressing the form and content of an amended scheduling order in which all parties generally agreed that it would be appropriate and

helpful for discovery in this matter to be bifurcated between class certification issues and those related to the merits. (Docs. 249 and 251). On September 22, 2021, counsel for the parties participated in a Zoom conference with the Special Master to discuss scheduling in this case.

Based upon the foregoing, the following new deadlines will apply to this matter and supersede those contained in the Initial Case Management Order (Doc. 116):

1. CLASS CERTIFICATION DISCOVERY. The parties shall complete all written discovery and depose all fact witness regarding class certification on or before Wednesday, March 30, 2022.¹ No motions concerning discovery are to be filed until after the parties have conferred in good faith and, unable to resolve their differences, have scheduled and participated in a conference telephone call with the Special Master.

2. DISCLOSURE OF CLASS CERTIFICATION EXPERTS. Plaintiffs shall identify and disclose all expert witnesses and expert reports on or before Friday, April 22, 2022. Defendants shall identify and disclose all expert witnesses and reports on or before Monday, May 30, 2022.

3. DEPOSITION OF CLASS CERTIFICATION EXPERTS. The parties shall depose experts on class certification issues on or before Wednesday, June 29, 2022.

4. CLASS CERTIFICATION MOTIONS. Plaintiffs shall file their motion for class certification on or before Friday, July 29, 2022. Responses to any class certification motion shall be filed within twenty-one (21) days after the filing of the motion, on or before Friday, August 19, 2022. Optional replies may be filed within fourteen (14) days after the filing of the response, on or before Friday, September 2, 2022. Briefs shall not exceed 20 pages.

¹ All deadlines pertain to the certification of claims by Provider Plaintiffs only. In the event a potential Consumer class is added, the parties are encouraged to seek guidance from the Special Master regarding these deadlines as needed.

5. MERITS DISCOVERY STAYED. Discovery into aspects of the merits unrelated to class certification is hereby **stayed**. Within twenty-one (21) days following the District Court's entering an Order ruling on Plaintiffs' class certification motion, the parties shall file a joint status report concerning the scope, need and timing of merits discovery.

ENTERED this 13th day of October 2021.

/s/Samuel P. Funk
Samuel P. Funk
Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 13th, 2021, a true and correct copy of the foregoing document was served via the Court's ECF Filing System on counsel of record, as follows:

John R. Jacobson
D. Alexander Fardon
Elizabeth O. Gonser
RILEY WARNOCK & JACOBSON, PLC
1906 West End Avenue
Nashville, TN 37203
jjacobson@rwjplc.com
afardon@rwjplc.com
egonser@rwjplc.com

David A. Rammelt
Nicholas J. Secco
BENESCH, FRIEDLANDER, COPLAN &
ARONOFF, LLP
71 South Wacker Drive, Suite 1600
Chicago, IL 60606
drammelt@beneschlaw.com
nsecco@beneschlaw.com

Michael D. Meuti
Andrew G. Fiorella
Mark K. Norris
BENESCH, FRIEDLAND, COPLAN &
ARONOFF, LLP
200 Public Square, Suite 2300
Cleveland, OH 44114
mmeuti@beneschlaw.com
afiorella@beneschlaw.com
mnorris@beneschlaw.com

Counsel for Defendants

Edward M. Yarbrough
W. Justin Adams
BONE MCALLESTER NORTON PLLC
511 Union Street, Suite 1600
Nashville, TN 37219
eyarbrough@bonelaw.com
wadams@bonelaw.com

Robert K. Spotswood
Michael T. Sansbury
Joshua K. Payne
Morgan B. Franz
SPOTSWOOD SANSOM & SANSBURY LLC
One Federal Place
1819 Fifth Avenue North, Suite 1050
Birmingham, AL 35203
rks@spotswoodllc.com
msansbury@spotswoodllc.com
jpayne@spotswoodllc.com
mfranz@spotswoodllc.com

Richard Stone
BLACKNER, STONE & ASSOCS.
123 Australian Avenue
Palm Beach, FL 33480
rstoneesq@rstoneesq.com

Counsel for Plaintiffs

/s/Samuel P. Funk